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Date: December 21, 2006By Jennifer Archer
Jennifer Archer

Attorney Docket No. 100717-670 KGB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Burkhard KOHLER et al
SERIAL NO. : 10/540,168
CUSTOMER NO. : 27384
FILED : August 29, 2005
FOR : PRODUCTION AND USE OF IN SITU MODIFIED
NANOPARTICLES
ART UNIT : 1641
EXAMINER : Shafiqul Haq

December 21, 2006

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION

SIR:

Applicants respectfully request that the finality of the Office Action mailed November 21, 2006, because it contains a new ground of rejection not necessitated by Applicants' previous amendment. In this regard, the Examiner makes a new ground of rejection of claim 2 under 35 USC § 112, second paragraph, as being indefinite in reciting the phrase "which can also, in addition be doped." See point 9 on page 3 of the Office Action mailed November 21, 2006. However, please see page 4 of Applicants' previous amendment of August 21, 2006: Claim 2 is unchanged, and, moreover, contains the exact language that the Examiner now finds

USSN 10/540,168
Request to Withdraw Finality of Office Action

objectionable. While Applicants did amend claim 1, on which claim 2 depends, such amendments to claim 1 did not affect the language in claim 2 now found objectionable. Accordingly, the Examiner could have made this rejection of claim 2 in the first Office Action, and Applicants' amendment of August 21, 2006, did not necessitate this new ground of rejection of claim 2.

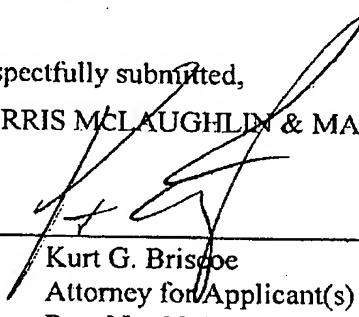
In view of the foregoing, Applicants respectfully submit that the final rejection is improper, and request a new non-final Office Action be issued.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS MC LAUGHLIN & MARCUS, P.A.

By


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